

BILL ANALYSIS

Senate Research Center

S.B. 512
By: Duncan
Finance
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Enrolled

DIGEST AND PURPOSE

The Texas Constitution assigns responsibility for investment of the Permanent School Fund (PSF) to the State Board of Education (board). S.B. 512 transfers the authority to manage and invest the Permanent School Fund from the State Board of Education to the Texas Education Agency to be governed by an investment board with appropriate financial expertise.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1.01. Amends Chapter 7D, Education Code, by adding section 7.113, as follows:

Sec. 7.133. CONTRACT WITH STATE AUDITOR FOR INVESTIGATIONS. Sets forth provisions regarding the establishment of a contract with the state auditor relating to certain criteria.

SECTION 1.02. Amends Chapter 43, Education Code, by adding Sections 43.0011 and 43.0012, as follows:

Sec. 43.0011. DEFINITION. Defines "interested person."

Sec. 43.0012. PERMANENT SCHOOL FUND INVESTMENT ADVISORY COMMITTEE. Sets forth provisions regarding the permanent school fund investment advisory committee.

SECTION 1.03. Amends Sections 43.0031(b), Education Code, to require the ethics policy to include provisions applicable to certain persons or members.

SECTION 1.04. Amends Section 43.0032, Education Code, as follows:

Sec. 43.0032. CONFLICTS OF INTEREST. (a) Provides that this section applies to certain persons or members.

(b) Requires a person to whom this section applies who has a business, commercial, or other relationship that a reasonable person would find likely to diminish the person's independence of judgment in the performance of the person's responsibilities relating to the management or investment of the fund to disclose the relationship in writing to the board. Makes conforming changes.

SECTION 1.05. Amends Section 43.0033, Education Code, as follows:

Sec. 43.0033. REPORTS OF EXPENDITURES. Requires certain persons providing services to the State Board of Education (board) to file with the board regularly, as determined by the board, a report that describes certain information.

SECTION 1.06. Amends Chapter 43, Education Code, by adding Sections 43.0035, 43.0036, 43.0051, and 43.0052, as follows:

Sec. 43.0035. FAILURE TO DISCLOSE POTENTIAL CONFLICT OF INTEREST RELATING TO MANAGEMENT OR INVESTMENT OF PERMANENT SCHOOL FUND. Sets forth provisions regarding the failure to disclose potential conflict of interest relating to management or investment of permanent school fund by certain persons.

Sec. 43.0036. INFORMATION REGARDING PERSONS INTERESTED IN INVESTMENTS OF PERMANENT SCHOOL FUND. Sets forth provisions regarding persons interested in investments of the permanent school fund.

Sec. 43.0051. REQUIRED CONTRACT PROVISION. Sets forth certain requirements for providing services to the board.

Sec. 43.0052. COOPERATION RELATING TO INVESTIGATION OR DISCIPLINARY ACTIONS OF CERTAIN PERSONS INTERESTED IN MANAGEMENT OR INVESTMENT OF PERMANENT SCHOOL FUND. Sets forth provisions regarding the comptroller providing certain information about the management or investment of the permanent school fund by certain persons.

SECTION 1.07. Amends Sections 43.006(f), Education Code, to authorize the board to determine the frequency of reports under this subsection. Deletes reference to quarterly.

SECTION 1.08. Amends Chapter 43, Education Code, by adding Sections 43.0061, 43.0062, and 43.0063, as follows:

Sec. 43.0061. BARRING CERTAIN PERSONS FROM CONTRACTING TO PROVIDE SERVICES RELATING TO MANAGEMENT OR INVESTMENT OF PERMANENT SCHOOL FUND. Sets forth provisions regarding the exclusion of certain persons from the management or investment of the permanent school fund.

Sec. 43.0062. HEARINGS BY STATE OFFICE OF ADMINISTRATIVE HEARINGS. Sets forth provisions regarding hearings by state office of administrative hearings.

Sec. 43.0063. MANAGEMENT AND PERFORMANCE AUDIT. Sets forth provisions regarding an audit performed by a selected independent firm.

SECTION 1.09. Amends Section 43.007, Education Code, as follows:

Sec. 43.007. New heading: PURCHASE AND SALE OR EXCHANGE OF INVESTMENTS. Sets forth provisions regarding the purchase and sale or exchange of investments.

SECTION 1.10. Amends the heading to Section 43.010, Education Code, to read as follows:

Sec. 43.010. DEFAULT OF SCHOOL DISTRICT BONDS HELD BY PERMANENT SCHOOL FUND.

SECTION 1.11. Amends Sections 43.010(b) and (d), Education Code, as follows:

(b) Requires revenue collected by either method specified by Subsection (a) to be distributed proportionately to all owners of the defaulted bonds, rather than securities, in compliance with certain criteria.

(d) Makes a conforming change.

SECTION 1.12. Amends Section 43.015(f), Education Code, to require the comptroller to be the custodian of investments designated by the board in which the school funds of the state are invested. Deletes text regarding securities. Makes a conforming change.

SECTION 1.13. Amends Section 43.017, Education Code, to make conforming changes.

SECTION 1.14. Amends Section 43.018(b), Education Code, to authorize the board to contract with a commercial bank pursuant to this section only if certain conditions are met.

SECTION 1.15. Amends Section 321.013, Government Code, by adding Subsection (j), to require the state auditor to enter into a written contract with the board for the state auditor to investigate an allegation relating to the management and investment of the permanent school fund as prescribed by Section 7.113, Education Code. Requires the state auditor, after an investigation of an allegation is completed, to prepare a written report of the results of that investigation. Requires the state auditor to submit the report to the committee before publication. Requires the state auditor to file a copy of the report with certain persons.

SECTION 1.16. Requires certain persons, not later than December 1, 2001, to appoint members of the permanent school fund investment advisory committee, as required by section 43.0012, Education Code, as added by this article.

SECTION 1.17. Provides that Sections 43.0035 and 43.0051, Education Code, as added by this Act, apply only to an arrangement or contract entered into or after September 1, 2001.

SECTION 1.18. Requires the board, not later than December 1, 2001, to post on an Internet website the information required by Section 43.0036, Education Code, as added by this article.

SECTION 1.19. Requires the commissioner of education, not later than December 1, 2001, on behalf of the State Board of Education, and the chief administrative law judge of the State Office of Administrative Hearings to adopt a memorandum of understanding as prescribed by Section 43.0062, Education Code, as added by this article.

SECTION 1.20. Requires the legislative audit committee, not later than December 1, 2001, to select an independent firm to evaluate investment management practices and performance relating to the permanent school fund as required by Section 43.0063, Education Code, as added by this article. Requires the evaluation to include a comprehensive analysis of the board's investment program relating to the permanent school fund.

SECTION 1.21. Effective date: September 1, 2001.

ARTICLE 2. COMPOSITION OF AND AUTHORIZED INVESTMENTS FOR PERMANENT SCHOOL FUND

SECTION 2.01. Repealer: Section 43.003, Education Code.

SECTION 2.02. Amends Sections 43.001(a) and (b), Education Code, as follows:

(a) Provides that the permanent school fund, which is a perpetual endowment for the public schools of this state, consists of certain assets.

(b) Provides the available school fund, which is required to be apportioned annually to each county according to its scholastic population, consists of certain funds.

SECTION 2.03. Effective date: September 1, 2001.